

**THE UNITED STATES DISTRICT COURT  
Middle District of Pennsylvania  
Harrisburg, PA**

**Yan SHAO**

**Plaintiff,**

**v.**

**Edward Cuccia**

**Charles Day**

**John / Jane Doe**

**Law Offices of Ferro & Cuccia**

**Defendants.**

**No. 1:00 CV 1901  
(JUDGE Rambo)**

**CIVIL ACTION - LAW**

**FILED**

**APR 03 2003**

**MARY E. D'ANDREA, CLERK**

**200 4th Fl. HOB, PA DEPUTY CLERK**

**REPORT TO MAGISTRATE JUDGE J. ANDREW SMYSER  
CONCERNING STATUS OF THE PLAINTIFF'S EFFORTS TO COLLECT  
INFORMATION AS TO THE DEFENDANT'S ASSETS  
THAT MAY BE SUBJECT TO LEVY**

MAY IT PLEASE THE COURT, pursuant to the March 25 2003 Order of the Magistrate Judge, the plaintiff herewith submits a report of her efforts to collect information concerning the assets of the defendant and judgement debtor.

The following communications have been made to the defendant, with the following results:

**DATE / COMMUNICATION**

**RESULTS OBTAINED**

July 23. 02 - Asset interrogatories served on Charles Day  
Via certified mail

Not accepted by Mr.  
Day - returned to  
sender

July 29 02 - Interrogatories personally served on Pamela Day

Court Ordered  
*in camera*  
submissions, but  
then ruled the



	information request to Pamela Day to be improperly served (Court Orders of Oct 9 02 & Mar 17 03)
Sept 12 02 - Letter requesting payment of judgement (appended, as item A)	No response
Sept 12 02 - Asset Interrogatories forwarded to Mr. Day (appended as item B, see Nov 12 02 item)	Response rcd Nov 12 02
Nov 12 03 - Plaintiff received responses to Sept 12 02 asset Interrogatories (appended, B)	Court found responses to be tardy and evasive (See Oct 9 02, Oct 15 02 & March 17 03 Court Orders)
Dec 4 02 - Receipt of undated "additions to my discovery" from Mr. Day (appended, C)	Court ruled responses inadequate
Jan 6 03 - Second Request for Documents (appended, D)	No response
Jan 6 03 - Request for Admissions (appended, E)	No response
Jan 17 03 - Letter requesting payment of Judgement (appended, F)	No response
Jan 28 03 - Receipt of Mr. Day's "Second Supplemental responses" (appended G)	Court ruled (Mar 17 03) responses inadequate
Jan 31 03 - Letter to H Herman, Mr. Day's then lawyer (appd H)	Mr. Herman withdrew
Jan 31 03 - Letter requesting response to Jan 6 03 Discovery (appd I)	No response

As the above information indicates, very little asset information has been obtained from Mr. Day. I do not know what cash or other fungible assets he owns. His ownership or part ownership in real property in Florida is uncertain. The degree his wife



contributes to his household or what property they may own jointly is unknown to me.

The plaintiff has not yet undertaken to depose either Mr. Day or Ms Day. Nor has the plaintiff sought to subpoena any records from any financial institutions, owing to the lack of specificity from Mr. Day as to the location of his accounts. Nor has the plaintiff sought judicial supervision of the Jan 06 03 requests for information from Mr. Day. The reason for these omissions is, the plaintiff has been awaiting the court's Orders concerning three motions placed before the Court on Jan 28 2003. The Court ruled on these motions on March 17 03, after which time, the plaintiff elected to await directions from the Magistrate Judge before undertaking any additional discovery. These directions, dated March 25, 2003 have now been received.

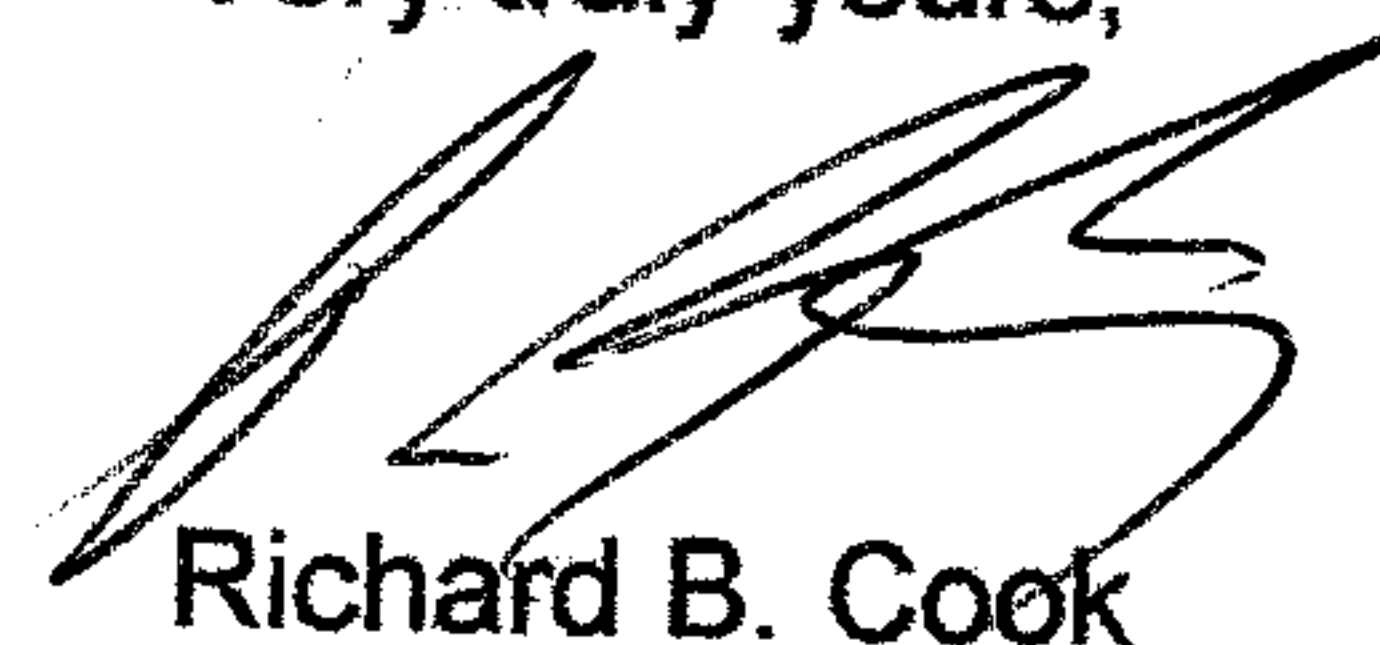
The plaintiff asks the Magistrate Judge to note the plaintiff continues to await responses to her January 6 03 requests for documents and admissions, which were directed to Mr. Day.

The plaintiff has concluded that taking Mr. Day's deposition at this time would be very costly to her, with little likelihood that the results obtained would justify these costs. If written deposition questions are submitted to Mr. Day, the plaintiff believes these likely would be ignored, as have the January 6 03 information request to Mr. Day. In any case, the plaintiff would like to have responses to the January 6 03 discovery prior to taking depositions.

In the expectation that receipt of responses to the January 6 03 discovery might facilitate asset collect information, the plaintiff has asked the Court to order Mr. Day to respond to these requests.

Date: 3/28/03

Very truly yours,



Richard B. Cook



A

*Licensed in Maryland  
And Louisiana*

*Licensed in Hawaii  
(inactive)*

**Richard B. Cook**  
*Attorney and Counselor at Law*  
PO Box 411  
Hunt Valley, MD 21030  
410 683 9469

Mr. Charles Day, Esq.  
80-100 Tryon PL.  
Jamaica, NY 11432  
718 968 4858

September 12, 2002

Re: Yan Shao v. Cuccia, et al, 1:00 - CV - 1901, in the Third Circuit, 01-4327

Dear Mr. Day

I write concerning the judgement against you, which has been awarded in the above captioned matter. The amount of the judgement is \$78,015.00, excluding interest.

On behalf of my client, I ask that you make full and immediate payment of this award. You may make this payment by forwarding a certified check to the address above, with the check made to the order of Yan Shao and Richard B. Cook.

You will find enclosed two sets of interrogatories in aid of execution, together with a stamped, self addressed envelope. I ask that you respond immediately to each interrogatory by returning a completed set to me.

Very truly yours,  
**ORIGINAL SIGNED**

Richard B. Cook

I certify on penalty of perjury that the above letter, with enclosures was sent via First Class Mail, signature confirmation requested, on Sept 12, 2002.

**ORIGINAL SIGNED**

---

Richard B. Cook

B

ack  
11/12/02  
RBC

THE UNITED STATES DISTRICT COURT  
Middle District of Pennsylvania  
Harrisburg, PA

Yan SHAO	)	No. 1:00 CV 1901
	)	(JUDGE Rambo)
Plaintiff,	)	
	)	
v.	)	
	)	
Edward Cuccia	)	
Charles Day	)	
John / Jane Doe	)	CIVIL ACTION - LAW
Law Offices of Ferro & Cuccia	)	
	)	
Defendants.	)	

PLAINTIFFS' FIRST SET OF INTERROGATORIES IN AID OF  
EXECUTION OF JUDGEMENT TO THE DEFENDANT CHARLES DAY

To:

CHARLES DAY  
80-100 Tryon Place  
Jamaica, NY 11432  
718 969 4858

Pursuant to Rule 69 and Rule 34 of the Federal Rules of Civil Procedure, the plaintiff requests the defendant answer the following interrogatories within 30 days of service of this pleading, by mailing a copy of the same to the undersigned at the address indicated below. Enclosed are two (2) copies of the Interrogatories and a stamped, self-addressed envelope for the return of responses to the Interrogatories.

If you do not answer the attached questions within the time required, the opposing party may ask the Court to conduct a hearing in order to determine if you should be held in contempt. You will be compelled to appear at the hearing and explain your reasons for your failure to answer.

You must answer each question giving complete answers, attaching additional pages if necessary. False or misleading answers may subject you to punishment by the

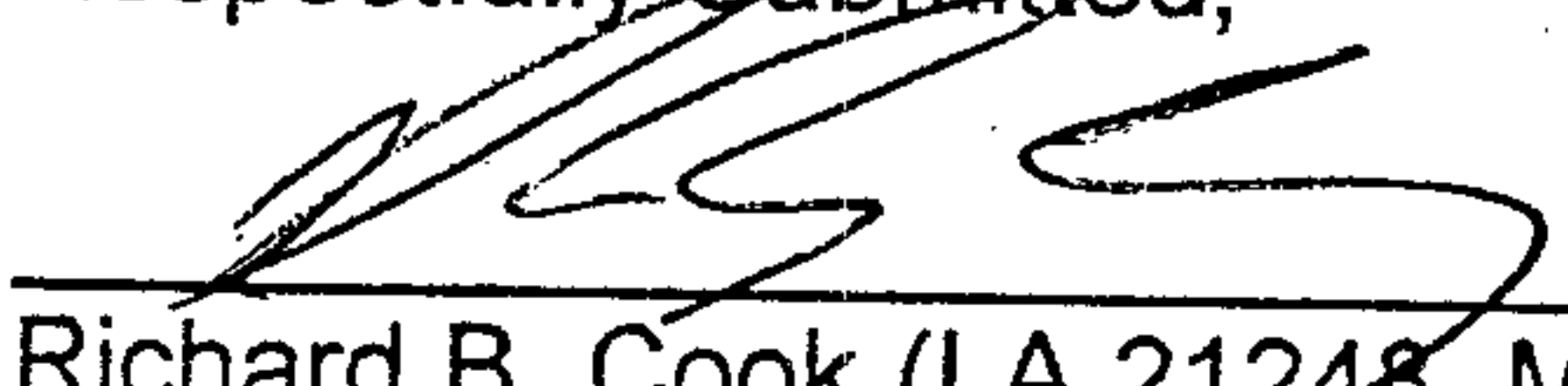


Court. Even if you dispute the judgment you must answer all of the attached questions.

Be sure to sign and date your answers.

Date: 9/12/02

Respectfully Submitted,

  
Richard B. Cook (LA 21248. MD )  
Attorney for the Plaintiff  
PO Box 411  
Hunt Valley, MD 21030-0411  
410/683-9469

### INTERROGATORIES IN AID OF EXECUTION OF JUDGEMENT

1. Full name: Charles Day
2. Address: 80-100 Tryon Pl., Jamaica NY 11432
3. Birth Date: \_\_\_\_\_
4. Social Security Number: Objection
5. Drivers' License Number and Expiration Date: N.Y. 786603868; 9/1/07
6. Telephone Number: You already have all 3.
7. Full Name and Address of Your Employer:  
Self-employed
  - a. Your weekly salary: ~~Gross~~ \_\_\_\_\_ ~~Net~~ varies \$200-\$400/wk.
  - b. If not presently employed, name and address of last employer  
\_\_\_\_\_
8. If there is currently a wage execution on your salary (circle one):  
Yes ☐ No ☒
9. List the names, addresses and account numbers of all bank accounts on which your name appears:

- a. Ridgewood Savings Bank account # currently unknown.
- b. Citibank account 035-0784140-651
- c. \_\_\_\_\_

10. If you receive money from any of the following sources, list the amount, how often and the name and address of the source, using additional paper, if necessary;  
Type

	<u>Amount &amp; Frequency</u>	<u>Name &amp; Address of Source</u>
Alimony	<u>0</u>	_____
Loan Payments	<u>0</u>	_____
Rental Income	<u>0</u>	_____
Pensions	<u>0</u>	_____
Bank Accounts	<u>0</u>	_____
Stock Dividends	<u>0</u>	_____

11. Do you receive social security benefits? (circle one)

Yes

No

12. Do you own property where you reside? (circle one)

Yes

No

If yes, state the following:

a. Name of the owner or owners: \_\_\_\_\_

b. Date property was purchased: \_\_\_\_\_

c. Purchase price: \_\_\_\_\_

d. Name and address of mortgage holder: \_\_\_\_\_

e. Balance due on mortgage: \_\_\_\_\_



13. Do you own any other real estate? (circle one)

Yes

No

If yes, state the following for each property:

- a. Address of property: \_\_\_\_\_
- b. Date property was purchased: \_\_\_\_\_
- c. Purchase price: \_\_\_\_\_
- d. Name and address of all owners:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

e. Name and address of mortgage holder: \_\_\_\_\_

f. Balance due on. mortgage: \_\_\_\_\_

g. Name and address of all tenants and monthly rental paid by each tenant:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

14. Does the present value of your personal property which include automobiles, furniture, appliances, stocks, bonds, and cash on hand exceed \$1,000.00? (circle one)

Yes

No

and itemize all personal property owned by you (use additional paper, if necessary).

Cash on Hand: \$ \_\_\_\_\_

Other Personal Property (excluding Motor vehicles)

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.



If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_  
 Date Purchased: \_\_\_\_\_  
 Purchase Price: \_\_\_\_\_  
 Is Finance Balance Still Due? \_\_\_\_\_  
 Present Value: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_  
 Date Purchased: \_\_\_\_\_  
 Purchase Price: \_\_\_\_\_  
 Is Finance Balance Still Due? \_\_\_\_\_  
 Present Value: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_  
 Date Purchased: \_\_\_\_\_  
 Purchase Price: \_\_\_\_\_  
 Is Finance Balance Still Due? \_\_\_\_\_  
 Present Value: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_  
 Date Purchased: \_\_\_\_\_  
 Purchase Price: \_\_\_\_\_  
 Is Finance Balance Still Due? \_\_\_\_\_  
 Present Value: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_

Date Purchased: \_\_\_\_\_

Purchase Price: \_\_\_\_\_

Is Finance Balance Still Due? \_\_\_\_\_

Present Value: \_\_\_\_\_

15. Do you own one or more motor vehicles? (circle one)

Yes

No

If yes, state the following for each vehicle owned:

a. Make, model and year of motor vehicle: \_\_\_\_\_

b. If there is a lien on the motor vehicle, state the name and address of the lien holder, and the amount due to the lien holder:

c. State where Licensed and License plate: \_\_\_\_\_

d. Vehicle identification number: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_

Date Purchased: \_\_\_\_\_

Purchase Price: \_\_\_\_\_

Is Finance Balance Still Due? \_\_\_\_\_

Present Value: \_\_\_\_\_

Set forth make \_\_\_\_\_, model \_\_\_\_\_ & serial number \_\_\_\_\_.

If financing, the name and address of party to whom payments are made).

Item: \_\_\_\_\_

Date Purchased: \_\_\_\_\_



Purchase Price: \_\_\_\_\_  
 Is Finance Balance Still Due? \_\_\_\_\_  
 Present Value: \_\_\_\_\_

16. Do you own a business? (circle one)

Yes  
 No

If yes, state the following:

a. Name and address of the business:

Solo practitioner see #7

b. Is the business a Corporation, sole proprietorship, or partnership? see 7

c. The name and address of all stockholders, officers, and/or partners (use separate paper, if necessary):

see 7  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

d. The amount of income received by you from the business during the last twelve months: \$ \_\_\_\_\_

17. Set forth all other judgments that you are aware of that have been entered against you and include partners (use separate paper, if necessary):

Creditor's Name	Creditor's Attorney	Amount Due	Name of Court	Docket
<u>Joseph Chiaromonte</u>	<u>unk.</u>	<u>10,000</u>	<u>unk.</u>	<u>unk.</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

18. Please state the name and address of your wife.

Abigail  
 \_\_\_\_\_

19. Does your wife contribute to the support and maintenance of yourself and/or of your

household?

No

20. Please state the name and address of your wife's employer.

Object, not a party to the action.

21. Please state the amount of your wife's annual income.

Object, not a party

22. Please state whether your wife owns any real estate? (circle one)

Yes

No

Object, not a party to the action

If yes, state the following for each property:

b. Address of property: \_\_\_\_\_

b. Date property was purchased: \_\_\_\_\_

c. Purchase price: \_\_\_\_\_

d. Name and address of all owners:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. Name and address of mortgage holder: \_\_\_\_\_

f. Balance due on mortgage: \_\_\_\_\_

g. Name and address of all tenants and monthly rental paid by each tenant:

4. \_\_\_\_\_

5. \_\_\_\_\_

6. \_\_\_\_\_



23. Does the present value of your wife's personal property which include automobiles, furniture, appliances, stocks, bonds, and cash on hand exceed \$1,000.00? (circle one)

Yes

No

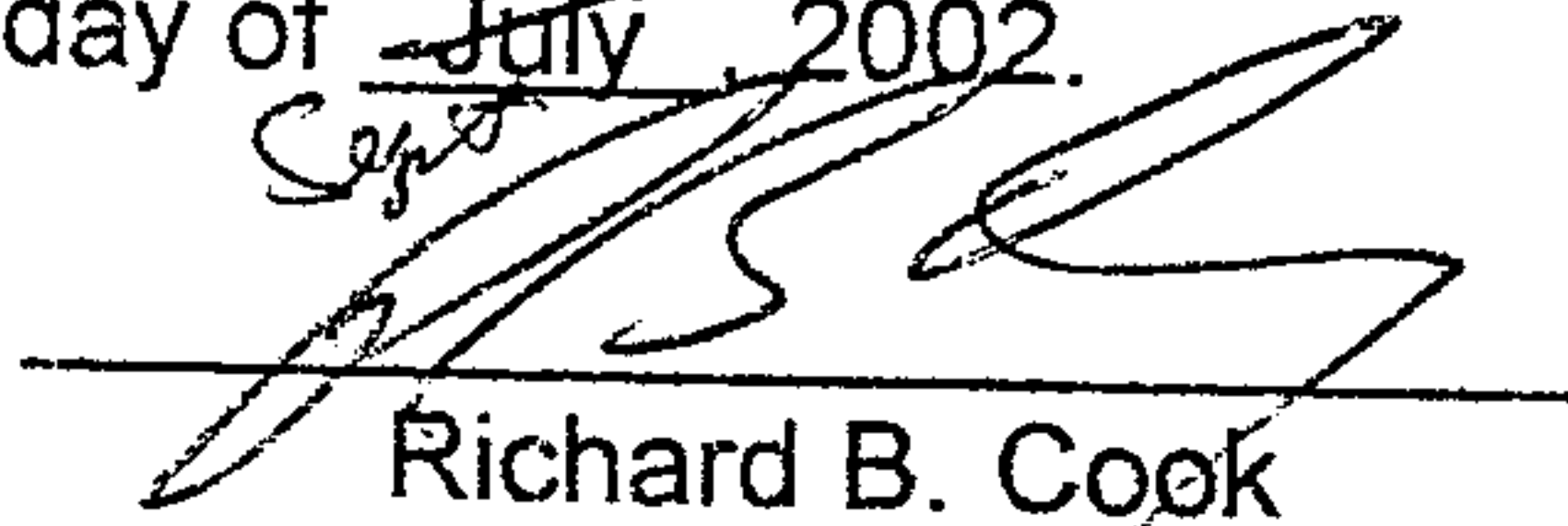
*Objection, not a party to the action*

### CERTIFICATE OF SERVICE

I certify that copies of the foregoing interrogatories have been served upon the pro se defendant by first class mail this 17<sup>th</sup> day of July, 2002.

*12<sup>th</sup>*

*Sept*



Richard B. Cook

C

Dear Mr. Cook:

Please find the following additions to my discovery. I acknowledge that some answers are incomplete due to my lack of knowledge, if and when I find these items I will inform you.

- Items 3 & 4: 9/1/69; 067-56-7926
- Item 6: 212-274-8408; 212-274-9960; 212-625-8628
- Item 7: I do not have a formal business address but for per diem matters and telephone answering service the address used in 30 E. Broadway, NY, NY 10002.
- Item 7a: See Item 7.
- Item 7b: As you well know: Ferro & Cuccia, 325 Broadway, NY, NY 10007.
- Item 9: Both accounts are dormant and copies of statements have yet to be found.
- Item 16a: See above.
- Item 16d: The amount of income earned/derived in the past 12 months is unknown. No quarterly taxes have been filed. No financial statement is currently available. It doubtful whether one will even be made aside from taxes at the end of the year. Therefore the answer is 'currently unknown.'
- Item 17: The judgment was a confession of judgment which may or may not have been filed. The judgment creditor is Joseph Chiaramonte.
- Items 18, 20-23: I continue my objections to these answers.



Richard B. Cook, LA #21248  
PO Box 411  
Hunt Valley, MD 21030-0411  
410 683 9469

RE: LOANS SOUGHT AND OBTAINED BY MR. DAY

1. Please provide a copy of any loan application signed by you and submitted to any commercial lender in 2000, 2001, 2002, or 2003.
2. Please provide a copy of any paperwork whatsoever related to the obtaining of any loan extended to you in 2000, 2001, 2002, or 2003.
3. Please provide a copy of any paperwork whatsoever related to the obtaining of any loan extended to you in 2000, 2001, 2002, or 2003.
4. Please provide a copy of any mortgage loan application signed by you and submitted to the Bank of America in 2002.
5. Please provide a copy of any paperwork whatsoever related to the obtaining of any mortgage extended to you in 2000, 2001, 2002, or 2003.
6. Please provide a copy of any paperwork whatsoever related to the obtaining of any mortgage extended jointly to you and to any other party in 2000, 2001, 2002, or 2003.

CERTIFICATE OF SERVICE

I certify that copies of the foregoing document request have been served upon counsel for the above referenced defendant and upon all other counsel of record by first class mail, properly addressed and postage prepaid, this 6<sup>th</sup> of January, 2003.

  
Signature



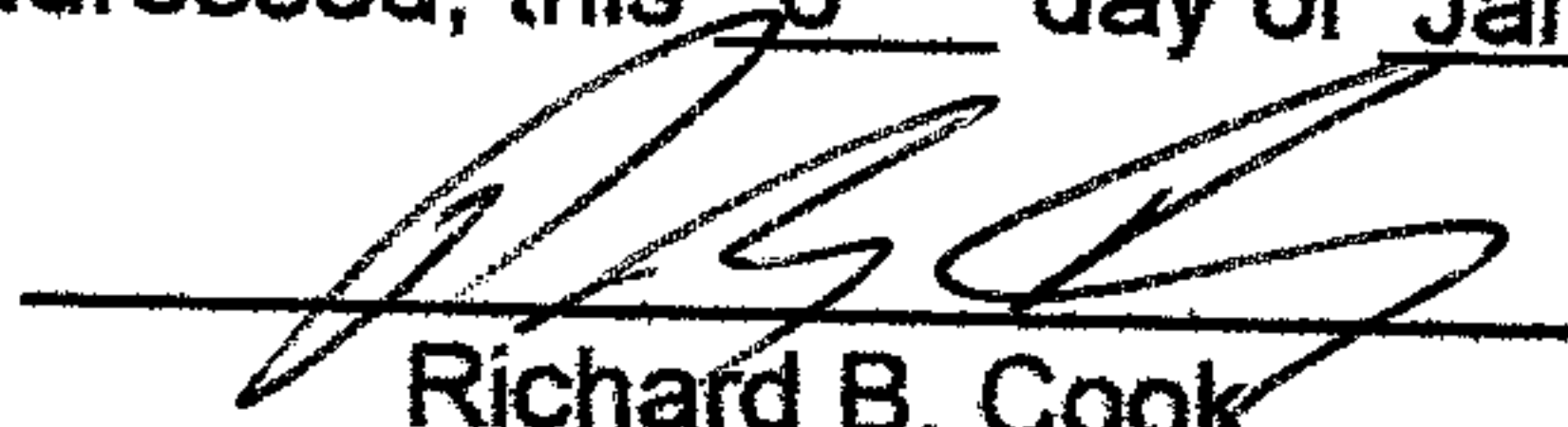
Richard B. Cook, LA #21248  
PO Box 411  
Hunt Valley, MD 21030  
410/683-9469

RE: MR. DAY'S PREVIOUS RESPONSES TO ASSET DISCOVERY  
INTERROGATORIES

1. In May 2002, the defendant and judgement debtor Charles C, Day, obtained a mortgage from the Bank of America.
2. The above referenced mortgage was on property in the State of Florida.
3. In obtaining the above referenced mortgage, the defendant and judgement debtor Charles C, Day, provided information to the Bank of America concerning his income for 2001.
4. Pamela Day, the wife of the defendant and judgement debtor Charles C, Day, participated in seeking and obtaining the above referenced mortgage.
5. In the course of seeking and obtaining the above referenced mortgage, information concerning the income of Pamela Day, the wife of the defendant and judgement debtor Charles C, Day, was provided to the Bank of America.
6. During all or a portion of 2002, the personal property of the defendant and judgement debtor Charles C, Day included an automobile registered in the name of the defendant and judgement debtor Charles C, Day.
7. The automobile referenced in Admission #6 was obtained on or after July 2000.
8. The automobile referenced in Admission #6 was obtained via a loan from a commercial lender.
9. In 2002, the value of the personal property of the defendant and judgement debtor Charles C, Day exceeded \$1,000.
10. The present value of the personal property of the defendant and judgement debtor Charles C, Day exceeds \$1,000.

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing request for admissions has been served upon Mr. Day, pro se counsel of record, by placing a copy of same in the U.S. Mail, postage prepaid and properly addressed, this 6<sup>th</sup> day of January, 2003.

  
Richard B. Cook



F

*Licensed in Maryland  
And Louisiana*

*Licensed in Hawaii  
(inactive)*

**Richard B. Cook**  
*Attorney and Counselor at Law*  
PO Box 411  
Hunt Valley, MD 21030  
410 683 9469

Mr. Charles Day, Esq.  
80-100 Tryon PL.  
Jamaica, NY 11432  
718 968 4858

via fax to 212 274 9960

Mr. Charles Day, Esq.  
30 E. Broadway  
New York City, NY 10002  
212 274-8408

January 17, 2003

Re: Yan Shao v. Cuccia, et al, 1:00 - CV - 1901, in the Third Circuit, 01-4327

Dear Mr. Day

I have written to you on several occasions concerning your failure to pay the assessments and judgements, which you have been ordered to pay by the United States District Court in the Middle District of Pennsylvania and also by the Third Circuit in Philadelphia. You have neither paid the judgements or responded to these communications. On January 15, 2003, I called your answering service in Manhattan (212 274 8408) and left my number with the service. I have no record that you have returned this call.

I write once again concerning the judgement issued by Judge Rambo in November 2001. The amount of the judgement is \$78,015.00, excluding interest. On behalf of my client, I ask that you make full and immediate payment. On Jan 3 2003, I wrote to you asking you to pay the sanctions imposed upon you by the Third Federal Circuit. You have not responded. Please pay the assessment made against you by the Third Circuit. You may make these payments by forwarding one or more certified checks to the address above, with the check made to the order of Yan Shao and Richard B. Cook.

I have also written to you on earlier occasions asking that you forward a SIGNED AND DATED copy of your amended responses to the asset discovery interrogatories. Once again, I ask: please send me a signed and dated copy of your amended responses.

Very truly yours,  
**ORIGINAL SIGNED**

Richard B. Cook

## DECLARATION

I submit this declaration pursuant to 28 U.S.C. 1746.

- 1) My name is Richard B. Cook. I am an attorney licensed to practice law in Louisiana, Maryland and Hawaii (inactive).
- 2) I certify that the appended letter was forwarded via first class mail on January 22 2003 to M. Charles Day to the addresses specified in the letter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 22, 2003.

ORIGINAL SIGNED

---

Signature



6

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

----- X  
Yan SHAO :

Plaintiff, :

-against - :

00 CIV 1901  
(Judge Rambo)

Edward Cuccia,  
Charles Day,  
John / Jane Doe, :  
Law Offices of Ferro & Cuccia

Defendants. :  
----- X

**CHARLES C. DAY'S SECOND SUPPLEMENTAL RESPONSES TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Item 6: Plaintiff's attorney is already in possession of my phone number. He has used it to his advantage in stating that he has notified me of various matters. I do not have a home phone number in my name. The phone numbers which I use in connection with my self employment have been listed in my supplemental responses.

Item 7a: Employment was dealt with in my supplemental responses.

Item 7b: Is not applicable.

Item 9: A complete response to item 9 is:  
Ridgewood Savings: Whitestone, NY; Acc't No.: 60000040505.  
Citibank Savings: NY, NY 035-0784140-65  
HSBC: NY, NY 717047598

Item 16d: Income has not yet been assessed. No quarterly earnings statements have been filed, nor has 2002 taxes been filed.

Items 18 & 20-23: Objections still stand.

Dated: January 27, 2003

  
Charles C. Day

Rec'd  
1/28/03 PC



H

*Licensed in Maryland  
And Louisiana*

*Licensed in Hawaii  
(inactive)*

**Richard B. Cook**  
*Attorney and Counselor at Law*  
PO Box 411  
Hunt Valley, MD 21030  
410 683 9469

January 31, 2003

HAROLD S HERMAN  
277 BROADWAY  
NEW YORK NY 10007  
(212) 233-6850

Re: Yan Shao v. Cuccia, et al, 1:00 - CV - 1901

Dear Mr. Herman,

Thanks for responding to my earlier letter.

Permit me to clarify one or two points having to do with the present posture of this case.

On Jan 28 2003, I personally served three motions on Charles Day and, separately, on Pamela Day. Responses (if any) are due 15 days from date of service. LR 7.5. I have not served any of this material on you. It is my understanding that both Charles Day and Pamela Day are appearing *pro se* in the above captioned matter. In other words, based on our earlier conversations, you do NOT represent either Charles Day or Pamela Day as to anything that involves litigation in the Middle District of the United States District Court in Pennsylvania. I ask you to confirm this understanding. If I am mistaken and you are their attorney, please let me know and accept my apologies for failing to serve these pleadings on yourself. Hearing from you, I will then of course, immediately serve a copy of these three pleadings on you and ask the court to extend additional time for you to make a response.

A second matter of concern to me is the role, which Roseanne M Chiaramonte has played in facilitating the purchase of property in Florida with Charles Day and Pamela Day. On January 28 2003, Mr. Day testified that Ms. Roseanne M Chiaramonte is his aunt and that she secured a mortgage with Charles and Pamela Day on property at 3046 Dupont Street, South, Gulfport, FL 33707-5705. Mr. Day further testified that in fact he did not borrow any money at all and that he is only listed as a borrower as a favor extended to him by Ms. Roseanne M Chiaramonte, his aunt, who wished to assist him to rehabilitate his credit. The idea apparently is (so Mr. Day testified) that the payment of the mortgage would appear to be coming from himself and so therefore his credit rating would improve. For her part, Ms. Pamela Day testified that she and her mother live in the house in question and are making the payments.

I have discussed the loan scenario (as described by Mr. Day in his testimony) with a real estate agent and others who have expertise in real estate transactions. Each of them is incredulous. Apparently, any one who desires to be listed formally as a debtor on a mortgage must



demonstrate the capacity to repay. Furthermore, if someone with bad credit presents himself as a borrower, an effort is made to advance the loan without this person even appearing on the paperwork - which is the opposite of Mr. Day's testimony.

On January 6 2003, I forwarded two discovery documents to Mr. Day, (1) a request for admissions, and (2) a request for documents. The thrust of these inquiries has to do with the Florida real estate transaction. Responses are due 30 days after the information requests were mailed to Mr. Day (adding three mail days), that is, by February 10, 2003 - at the latest. Permit me to suggest - in the event that you do represent Mr. Day if only to the extent of gathering paperwork in response to discovery - that I do not wish to extend the deadline by which these responses are due. Instead, if responses are not received by February 10, 2003, I intend promptly to seek judicial supervision in the form of a motion to compel responses.

With or without those responses, I must now consider seeking information from Ms. Chiaramonte.

I look forward to hearing from you.

Please feel free to communicate with me at any time.

Best wishes,

Richard B. Cook

**ORIGINAL SIGNED**

Cc: Charles Day, Esq

*Licensed in Maryland  
And Louisiana*

*Licensed in Hawaii  
(inactive)*

**Richard B. Cook**  
*Attorney and Counselor at Law*  
PO Box 411  
Hunt Valley, MD 21030  
410 683 9469

Mr. Charles Day, Esq.  
80-100 Tryon PL.  
Jamaica, NY 11432  
718 968 4858

January 31, 2003

Re: Yan Shao v. Cuccia, et al, 1:00 - CV - 1901, in the Third Circuit, 01-4327

Dear Mr. Day

On January 6 2003, I forwarded two discovery documents to you, (1) a request for admissions, (2) a request for documents. The thrust of these inquiries has to do with the Florida real estate transaction about which you testified on Jan 28 2003. Responses are due 30 days after the information requests were mailed (adding three mail days), that is, by February 10, 2003 - at the latest. Permit me to suggest that I do not wish to extend the deadline by which these responses are due. Instead, if responses are not received by February 10, 2003, I intend promptly to seek judicial supervision in the form of a motion to compel responses.

Very truly yours,

Richard B. Cook

Cc: Harold Herman, Esq.



## DECLARATION

I submit this declaration pursuant to 28 U.S.C. 1746.

- 1) My name is Richard B. Cook. I am an attorney licensed to practice law in Louisiana, Maryland and Hawaii (inactive).
- 2) I certify that the appended letter was forwarded via first class mail on February 1, 2003 to M. Charles Day to the address specified in the letter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 1, 2003.

**ORIGINAL SIGNED**

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Signature